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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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John M. Monk

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EXAMINER

LEE, BRYAN Y

ART UNIT

PAPER NUMBER

2445

NOTIFICATION DATE

DELIVERY MODE

01/15/2010

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

IPOPS.LEGAL@agilent.com

Office Action Summary	Application No. 10/718,546	Applicant(s) MONK ET AL.	
	Examiner BRYAN LEE	Art Unit 2445	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 September 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Remarks/Arguments

1. This communication is considered fully responsive to the Amendment filed on 30 September 2009.

2. Applicant's arguments filed 30 September 2009 have been fully considered but they are not persuasive.

See below for detailed response.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

4. **Claim(s) 1-19** is/are rejected under 35 U.S.C. 102(a) as being anticipated by U.S. Pre-Grant Publication 2005/0081157 A1 to *Clark et al.* ("*Clark*").

As to **claim 1**, *Clark* disclose(s) an apparatus, comprising:

a graphical user interface (*Clark*; Fig. 4a) providing a link to network related measurements (*Clark*; [0034] viewing performance aspects of network entities) by network analysis devices (*Clark*; Fig. 4a; 90c, 90d, 90e, 90f; devices on the network that are analyzed), to present a test (*Clark*; Fig. 4a; 90a; a graph of the performance of devices, which shows the overall and individual

performance of the devices combined into a single view) including perceptibly correlated network-related measurements by two or more of the network analysis devices through a selectable graphical display of the network analysis devices, and a selectable graphical display of at least one network-related measurement for each selected network analysis device. (*Clark*; Fig. 4a; 54; graphical tree of selectable devices)

wherein, in response to user selection of the two or more of the network analysis devices, and in response to user selection of the at least one network-related measurement, from the selectable graphical displays, the graphical user interface causes the two or more of the network analysis devices and the at least one network related measurement to be added to the test.

Clark disclose(s) a user selecting an entity wide view which displays performance and status metrics for the aggregate set of members. ([0048]-0049)) The entity is a cluster of computers. Each member has performance and status metrics which can be combined into a display. The members of the cluster teach network analysis devices and the performance and status metrics teach network related measurements. The aggregate teaches the test.

In response to selecting an entity wide view an aggregate view is displayed. ([0048]-[0049]) The selection of devices and measurements is incorporated in the selection of the entity wide view. Examiner gives the term "user selection" limited patentable weight since it has not been incorporated into an actual step. Examiner construes a "user selection" having been made so long

as at some point a selection or selections have been made by the user for which an appropriate response is displayed.

As to **claim 2**, *Clark* disclose(s) an apparatus, wherein the network analysis devices are heterogeneous, (*Clark*; [0035] “may manage both homogeneous and non-homogeneous entities”) and the graphical user interface presents as the perceptible correlation correlated graphs of network-related measurements from the heterogeneous devices as a heterogeneous test, thereby allowing a new measurement of two or more network segments including the heterogeneous devices. (*Clark*; Fig. 4a; 90a; a graph of the performance of devices, which shows the overall and individual performance of the devices combined into a single view)

As to **claim 3**, *Clark* disclose(s) an apparatus, wherein the graphical user interface displays a vertically oriented window, and displays in the window a hierarchical icon control tree of selectable parent-child icons corresponding, respectively, to the test and the network analysis device for the test. (*Clark*; Fig. 4a; 54; graphical tree of selectable devices)

As to **claim 4**, *Clark* disclose(s) an apparatus, wherein child icons of the test parent icon correspond to a test results summary, to a test configuration, and to the test network analysis devices that each include child icons corresponding to results of the at least one measurement from each network analysis device and to a configuration of each network analysis device. (*Clark*; Fig. 7b; 54;

graphical tree of selectable devices has child icons 126a, 126b, 126c -- each corresponding to viewable measurements)

As to **claim 5**, *Clark* disclose(s) an apparatus, wherein a selectable parent icon of the tree corresponds to real-time measurement collections from the network analysis devices to be added into the test. (*Clark*; [0012]; the system monitors: CPU utilization, memory utilization, server requests/second; these are all real-time measurements)

As to **claim 6**, *Clark* disclose(s) an apparatus, wherein a selectable parent icon of the tree corresponds to the network analysis devices to launch a graphical user interface to manage the network analysis devices for the test. (*Clark*; 4b; 90c; is a parent icon that corresponds to a devices to be analyzed in the graph 94a; a browser is launched for a particular resource when the resource is selected [0056])

As to **claim 7**, *Clark* disclose(s) an apparatus, wherein the at least one network-related measurement for each selected network analysis device is an existing collection of network-related measurements. (*Clark*; [0012]; the system monitors a collection of the following: CPU utilization, memory utilization, server requests/second.)

As to **claim 8**, *Clark* disclose(s) an apparatus, wherein the selectable graphical display of the network analysis devices comprises graphical tab dialogues of analysis device selection, analysis device configuration, analysis device measurement selection, and analysis device measurement configuration,

allowing selection and configuration of analysis devices added into the test.

(*Clark*; tabbed inputs 130b and 130c provide a user with more options; [0063])

As to **claim 9**, *Clark* disclose(s) an apparatus, wherein the measurement results are visually correlated according to parameters selected from a time line, a threshold, and a trend. ([0061] threshold, Fig. 4a; 90a; See graph timeline and trend – graphs are visual representations of conditions over time and are used for analyzing trends, i.e. time of day with highest load can be spotted)

As to **claim 10**, *Clark* disclose(s) an apparatus, wherein the selectable graphical display of the network analysis devices comprises a list of available network analysis devices, (*Clark*; Fig. 4a; 54; graphical tree of selectable devices) a list of network analysis devices added into the test, (*Clark*; Fig. 4a; 90g; list of devices) and selection and removal graphical display buttons to add and remove (*Clark*; Fig. 4a; 90j, 90k; add remove buttons) an available network analysis device to/from the list of added network analysis devices.

As to **claim 11**, *Clark* disclose(s) an apparatus, wherein the selectable graphical display of the at least one network-related measurement comprises a list of available network-related measurements for each network analysis device in the list of added network analysis devices. (*Clark*; Fig. 7b; 54; graphical tree of selectable devices has child icons 126a, 126b, 126c -- each corresponding to viewable measurements)

As to **claim 12**, *Clark* disclose(s) an apparatus, wherein the selectable graphical display of the at least one network-related measurement comprises

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selectable graphical displays of measurement configurations for each network analysis device measurement. (*Clark*; Fig. 7b; 54; graphical tree of selectable devices has child icons 126a, 126b, 126c -- each corresponding to viewable measurements)

As to **claim 13**, *Clark* disclose(s) an apparatus, wherein the perceptibly correlated network-related measurements are visual correlations as a top-level test view of the test and selectable to navigate to lower test levels of detailed network-related measurement views of each network analysis device. (*Clark*; Fig. 4a, 90i, each measurement may be selected)

As to **claim 14**, *Clark* disclose(s) an apparatus, wherein a selectable parent icon of the tree corresponds to a test manager managing a plurality of tests and including a plurality of child test icons. (*Clark*; Fig. 7b; 54; graphical tree of selectable devices has child icons 126a, 126b, 126c -- each corresponding to viewable measurements)

As to **claim 15**, *Clark* disclose(s) an apparatus, wherein the perceptibly correlated network-related measurements are visual correlations (*Clark*; Fig. 4a; 90a; a graph of the performance of devices, which shows the overall and individual performance of the devices combined into a single view) and the graphical user interface presents a plurality of tests according to a time line as visually aggregated test results for each test and each aggregated test result (*Clark*; [0029] aggregated information) is selectable (*Clark*; Fig. 4a, 90i, each measurement may be selected) in each time line time period to navigate to each

test as the visually correlated network-related measurements at each time period in the time line.

As to **claim 16**, *Clark* disclose(s) an apparatus, wherein the graphical user interface comprises:

a test manager managing creation, update and deletion of the test, an agent manager managing creation, selection, and removal of the network analysis devices in the test; (*Clark*; Fig. 4a; [0054] create a new application, and delete a selected application)

an agent network interface configuration manager managing selection and configuration of network interfaces a network analysis device added in the test; and (*Clark*; [0026] includes a entity configuration interface; See also [0035])

an agent measurement configuration manager managing selection, configuration, and removal of a network-related measurement on a selected network interface for the network analysis device added in the test. (*Clark*; Fig. 4a; 90j, 90k; add remove buttons used to add and remove measurements)

As to **claim 17**, *Clark* disclose(s) a distributed computer network system, comprising:

a plurality of heterogeneous computer agents on a network and performing heterogeneous network-related measurements; and (*Clark*; [0035] “may manage both homogeneous and non-homogeneous entities”)

an apparatus in communication with the heterogeneous computer agents on the network and providing a graphical user interface (*Clark*; Fig. 4a) providing

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a link to the heterogeneous network-related measurements (*Clark*; [0034] viewing performance aspects of network entities) to manage a heterogeneous test including a visual correlation of one or more heterogeneous network-related measurements from each of two or more of the heterogeneous computer agents. (*Clark*; Fig. 4a; 90a; a graph of the performance of devices, which shows the overall and individual performance of the devices combined into a single view)

wherein, in response to user selection of the heterogeneous computer agents via the graphical user interface, and in response to user selection of the heterogeneous network-related measurements via the graphical user interface, the graphical user interface causes the two or more of the network analysis devices and the at least one network-related measurement to be added to the heterogeneous test.

Clark disclose(s) a user selecting an entity wide view which displays performance and status metrics for the aggregate set of members. ([0048]-0049]) The entity is a cluster of computers. Each member has performance and status metrics which can be combined. The members of the cluster teach network analysis devices and the performance and status metrics teach network related measurements. The aggregate teaches the test.

As to **claim 18**, *Clark* disclose(s) a computer in network communication with computer agents providing network related measurements, the computer comprising:

a programmed computer processor providing a graphical user interface (*Clark*; Fig. 4a) to a test as a collection of correlated one or more computer agent measurements from two or more computer agents. (*Clark*; Fig. 4a; 90a; a graph of the performance of devices, which shows the overall and individual performance of the devices combined into a single view)

the graphical user interface providing a link to the network related measurements provided by the computer agents, to present a test including perceptibly correlated network related measurements by two or more of the computer agents through a selectable graphical display of the computer agents, and a selectable graphical display of at least one network related measurement for each selected computer agent;

wherein, in response to user selection of the two or more of the computer agents, and in response to user selection of the at least one network related measurement, from the selectable graphical displays, the graphical user interface causes the two or more of the computer agents and the at least one network related measurement to be added to the test.

See similar rejection to claim 1.

As to **claim 19**, *Clark* disclose(s) a method, comprising:

presenting a selectable graphical display of known heterogeneous network analysis devices on a network to add into a test; (*Clark*; Fig. 4a; 54; graphical tree of selectable devices)

presenting a selectable graphical display of known network-related measurements corresponding to each selected network analysis device; (*Clark*; Fig. 7b; 54; graphical tree of selectable devices has child icons 126a, 126b, 126c -- each corresponding to viewable measurements)

presenting a graphical user interface to the test by displaying a visual correlation of the selected network-related measurements from the heterogeneous network analysis devices. (*Clark*; Fig. 4a; 90a; a graph of the performance of devices, which shows the overall and individual performance of the devices combined into a single view)

Conclusion

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to BRYAN LEE whose telephone number is (571)270-5606. The examiner can normally be reached on 9/4/5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivek Srivastava can be reached on 571-272-7304. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/B. L./
Examiner, Art Unit 2445

/Rupal D. Dharia/
Supervisory Patent Examiner, Art Unit 2400